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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/856,228

05/16/2001

Craig L. Linden

6674

29162

7590

04/12/2011

CRAIG L. LINDEN
1335 MIDWAY DRIVE
ALPINE, CA 91901

EXAMINER

MILLER, BENA B

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

04/12/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/856,228	LINDEN, CRAIG L.	
	Examiner	Art Unit	
	Bena Miller	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2010 and 27 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 11, 19, 21, 22, 26-32, 36-53 and 57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 11, 19, 21, 22, 26-32, 36-53 and 57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Based on the continually of recitations of the broad claims presented, it appears that the applicant has not made a reasonable attempt to advance prosecution. Since the originally filing in 2001, the examiner has issued several Office Actions for this application. The applicant is advised to view Chapter 1200 of the MPEP for assistance in advancing the prosecution of this case.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 11, 19, 21, 22, 26-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with indefiniteness that are too numerous to point out in every instance. The following examples are provided for the applicant's use in making corrections wherever appropriate but not specifically pointed to.

Regarding claim 4, Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “tactile” in claim 4 is used by the claim to mean “displaying to a user”, while the accepted meaning is “perceptible by

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touch.” The term is indefinite because the specification does not clearly redefine the term.

Regarding claim 30, it is not clear whether the at least one storage medium is the same as the at least one storage medium recited in line 7 of claim 1.

Regarding claim 32, it is not clear whether the at least one storage medium, at least one processor and at least one transceiver is the same as the at least one storage medium, at least one processor and at least one transceiver recited in lines 7 and 9 of the claim 1.

Regarding claim 36, the claim is confusing. Line 5 of the claim requires providing at least said tactile-output at least for controlling or further aiding the user with said inputs. However, the limitation appears to recite a method step. It is not clear how the step further structurally limit the claimed invention. In the event the limitation is deemed to further structurally limit the claim, it is not clear whether the at least said tactile-output is the same as the at least one electrically powered tactile stimuli output component recited in line 6 of claim 1. If so, the limitations appear to perform two distinct functions.

Regarding claim 40, it is not clear whether the one or more transducers are the same as the at least one transducer in line 4 of claim 1

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4 , 11 and 40 as best as understood, are finally rejected under 35

U.S.C. 102(e) as being anticipated by 6,744,370 to Sleichter, III et al

(hereinafter Sleichter). Sleichter discloses a powered interactive apparatus comprising an energy source (column 2 lines 51-61), a least one transducer (abstract), at least an input signal (microprocessor controller), one or more transceivers (45) an output component (vibrators 12 in pad 14), means for remotely controlling (36). In that the structures are met by Sleichter, it is presumed to be inherently capable of the claimed functions.

Claims 4, 11, 19, 21, 22, 26, 29, 31, 36-46 and 51-53 as best as understood, are finally rejected under 35 U.S.C. 102(b) as being anticipated by Kikinis.

The device of Kikinis teaches the elements of the claimed invention including energy source (power supply 33), at least one transducer (column 5, lines 56-67 of the specification), transmitters and receivers (col. 9, par. 2), an output component (73 and 75), a means for remote controlling (fig 2), at least one means for recording and playback means (column 8, lines 52-57 of the specification), a voice command system (88), at least one system (41) and a visual display (15). Kikinis also discloses at least one hybrid visual display and tactile input transducer (column 3, lines 54-55 and 66-67 and column 4 lines 1-4 of the specification). Kikinis further teaches that two or more

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individual plays the apparatus (col. 8, par. 6), a handheld device (the doll) and removable outer covering not necessary for operation of the apparatus (the doll clothing).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27, 28, 30, 32, 47 and 57 as best as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis.

Kikinis teaches most of the elements of the claimed invention except for communication between the apparatus and another apparatus and video camera. Kikinis teaches that one or more interactive dolls can be supported by the computer. Therefore, it would have been obvious to one of ordinary skill in the art to provide another apparatus for the device of Kikinis for the purpose of interacting with an individual as a knowledgeable and articulate companion. Further it would have been obvious to one of ordinary skill in the art to modify the device of Kikinis to include a casino game for the purpose of interacting with the individual.

Regarding claim 32, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use another apparatus, including the elements as

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claimed, with the device of Kikinis, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Arguments

Applicant's arguments filed 11/15/10 have been fully considered but they are not persuasive. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. In this instance, the applicant appears to only make remarks regarding the history of the application. It should be noted, the examiner contends the device of Sleichter III et al and Kikinis teaches or suggests the claimed limitations as noted above.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bena Miller/
Primary Examiner, Art Unit 3725
April 11, 2011